



# CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

Thursday, 6th January, 1949

## *OFFICIAL REPORT*

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## CONSTITUENT ASSEMBLY OF PAKISTAN

*Thursday, the 6th January, 1949*

The Constituent Assembly of Pakistan met in the Assembly Chamber, Karachi, at Eleven of the Clock, Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

### THE GOVERNMENT OF INDIA (AMENDMENT) BILL

**The Honourable Mr. Liaquat Ali Khan (East Bengal : Muslim) :** Sir, I beg to move :

“ That the Bill further to amend the Government of India Act, 1935, be taken in to consideration.”

Sir, the Honourable Members must have notified from the aims and objects of this Bill that the purpose of this Bill is to provide for the appointment of Deputy Ministers. In every Parliament and in every country of the world there is a provision for appointment of some such persons and I think that we should have this provision in our constitution so that we may be able to make these appointments to help in the administration of the country and to facilitate a speedy disposal of the business. I do not think I need say very much, Sir. It is a very straightforward Bill and I commend my motion for the acceptance of the House.

**Mr. President :** Motion moved :

“ That the Bill further to amend the Government of India Act, 1935, be taken into consideration.”

The motion was adopted.

**Mr. President :** Now we take up the Bill clause by clause.

Clause 2 was added to the Bill.

Clauses 3 and 4 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Mr. Liaquat Ali Khan :** Sir, I beg to move :

“ That the Bill be passed.”

**Mr. President :** The question is :

“ That the Bill be passed.”

The motion was adopted.

### THE PUBLIC AND REPRESENTATIVE OFFICES (DISQUALIFICATION) BILL

**The Honourable Mr. Liaquat Ali Khan (East Bengal : Muslim) :** Sir, I beg to move :

“ That the Bill to provide for the debarring from public life for a suitable period of persons judicially found guilty of misconduct in any public office or representative capacity or in any matter relating thereto be taken into consideration.”

Sir, this Bill, as must be in the knowledge of the Honourable Members, has been welcomed by the people in the country. From the comments in the Press it would appear that this Bill which is before the House has the universal support of the people of Pakistan. Sir, as is described in the Statement of Objects and Reasons, the purpose of this Bill is to disqualify those persons who in a representative capacity abuse the confidence which the people place

[The Honourable Mr. Liaquat Ali Khan.]

in them. The principle that is laid down in this Bill is not a new one. As a matter of fact under the present constitution in the Government of India Act, a similar provision of disqualification is provided for persons who are found guilty of corrupt practices in elections. I submit, Sir, that after a person is elected his responsibilities become greater. The people by electing a person to the Legislature place their confidence in him and if he exploits that confidence for his own personal gain or advantage, I think, he is deserving of greater punishment than to what he was subject before the election. Sir, to purify our public life and to see that Pakistan is founded on sound foundations, it is necessary that those of us who are entrusted with the running of the administration or passing of laws should not be guilty of any of the offences that are described in this Bill. Sir, it is a well-known saying that Caesar's wife must be above suspicion and I think the object of this Bill is to see that all the Legislators and all those who occupy positions of responsibility in the country should be above suspicion. I have no doubt, Mr. President, that this Act will have a very wholesome influence on our public men. Unfortunately, it is no use hiding this fact that at the moment some of us do not realise the responsibility which we owe to the State and to the people and some of us find the temptation too great, the temptation of having power prob-  
 abusing that power and I think, Sir, that this punishment that has been provided in this Bill cannot in any way be regarded as severe. As a matter of fact if any one having the responsibility and the authority is guilty of misconduct, he should be hounded out of the country and of the public life whereas here we are only providing that he should be dis-enfranchised up to a period of even years. Sir, there are certain amendments notices of which have been given by some members. There are some of the amendments which if the House so desires, I shall be very glad to accept and I believe that those amendments will remove some of the defects which some people might consider exist in this Bill. I would not deal with the amendments at this stage, Mr. President. I shall deal with them as they are moved by the Honourable Members of this House.

I may say, it will rebound to the credit of this august Assembly if they pass a measure like this and if they accept the motion that I have moved and pass this Bill ultimately. It would show to the world that as far as the Pakistan Parliament is concerned, as far as the Pakistan Constituent Assembly is concerned, we are all determined to purify our public life to the best of our ability. We are all determined to keep up that standard of integrity and honesty which has been laid down for us by our beloved Quaid-i-Azam. The only way to build Pakistan into a decent and prosperous State is to eradicate all kinds of corruption from every walk of life in this country.

Sir, I move.

**Mr. President :** Motion moved :

"That the Bill to provide for the debarring from public life for a suitable period of persons judicially found guilty of misconduct in any public office or representative capacity or in any matter relating thereto be taken into consideration."

I think it will be better if this motion is discussed along with the other two motions, if they are moved at all, regarding circulation and reference to Select Committee. I think that will be more convenient.

**Mr. Dharendra Nath Datta (East Bengal : General) :** Sir, the notice of amendment to refer the Bill to a Select Committee was not given by me but by Mr. Kamini Kumar Datta. I am instructed by him to inform you that he does not want to move this amendment.

**Mr. Nazir Ahmad Khan** (West Punjab : Muslim) : Sir, the fact that the Government have been compelled to bring forward this Bill is a sad reflection on our public life. It appears that there is in the possession of the Government data from which they have come to the conclusion that a Bill of the nature now before the House has to be brought forward. Some of those who had great hope in Pakistan and who still have got the greatest hope in Pakistan (and who might be called the idealists or the visionaries) had fondly hoped and imagined that on the night between the 14th and the 15th of August, 1947, there would be not only a revolution in our political life but also a revolution in our public morality. It is unfortunate that that fond hope was never realised and the result of what has happened during the last sixteen months is that today this august House has to consider a Bill which is to a large extent a drastic measure.

Now, Sir, it can be said that because there is evidence of mal-practices, mal-administration, corrupt practices, misconduct, jobbery, nepotism and favouritism, therefore it is necessary to check all this by legislation. As I have said on previous occasions also, legislation alone cannot meet the desired object. It is the standard of public morality of the people that is also to be raised along with legislations of this type, so that a time may come in our body-politic, when there may be absolutely no need to have laws of this nature. But looking at it from a practical point of view, that day is still a long way off. Therefore, I think that as long as we do not attain to that high standard of morality, this legislation is needed.

There are only a few observations that I would like to make with regard to this Bill. If this Bill is passed into law, it will be on the assumption that corruption, mal-administration and mis-conduct are rampant in Pakistan.

Therefore, we shall see whether the Government is going to make use of this Bill against a number of persons or against particular individuals. There have been criticisms in some quarters that this Bill is a powerful weapon in the hands of the Executive. On the other hand, it can be said that if it is fairly and properly used, the objection will stand nullified. Therefore, we hope that when this Bill is passed, we shall see evidence from which we can conclude that the Government is not using it as a political weapon against the opposition but using it as a measure to eradicate mal-practices from the body-politic of Pakistan.

Sir, from the Title of the Bill I find that this Bill is intended "to provide for the debarring from public life for a suitable period of persons *judicially* found guilty of misconduct." May I submit to the Honourable Prime Minister, who is in charge of this Bill, that, according to accepted canons of British Jurisprudence, in special cases a departure can be made from judicial evidence, as we understand it normally. In a recent case in England, as will be apparent from the speech of Sir Hartley Shawcross, a departure was allowed so far as the Laws of Evidence are concerned. Therefore, I would put forward this as an humble suggestion to the Honourable the Prime Minister, that in the rules, provision might be made—this is certainly a drastic measure and therefore drastic remedies are called for—that a departure under the circumstances might be permissible from the accepted canons of the Law of Evidence.

The second point, that I want to suggest to the Honourable the Prime Minister, is that when a Governor or the Governor-General is going to move the High Court or to appoint a particular Tribunal, he will do so on certain data or certain facts or certain evidence that may be brought to his notice from certain quarters. We have been told that rules will be framed in order to clarify the position as to who is going to move the Governor-General and who is going to move the Governor. But the Governor-General or the Governor will certainly look into the case from a *prima facie* point of view and some sort

[Mr. Nazir Ahmad Khan.]

of inquiry either by the Governor himself or by an agency appointed by the Governor would be called for. Now, we can imagine that the Governor or the Governor-General will have no time to inquire into the case or to hold a *prima facie* inquiry into the application personally. Therefore, I submit that provision should also be made for the Governor-General or the Governor to order an inquiry either through some officer or some investigating agency or some other agency ; but the rule should be clear authorising the Governor or the Governor-General to do so.

Lastly, I hope that this important piece of legislation will not meet the fate that its predecessor did. I am referring to the Criminal Law Amendment Act which was passed some months back. We find that although 7 or 8 months have elapsed, no special results are before the House or before the public. I hope that this Bill which is now being discussed will be used immediately on a large scale, because the Government itself has admitted that corruption is rampant on a large scale and it is with the intention of eradicating this evil and not with the intention of wreaking vengeance on any political opponent that this Bill is brought before the House.

Before I conclude, may I quote a verse from Maulana Rum :

“ *Ilm ra bar dil zaniyare buwad,  
Ilm ra bar tan zani mare buwad* ”.

“ Knowledge is a friend when it feeds the heart ; It is a foe when it feeds the appetite.”

If this legislation, which is certainly a powerful weapon in the hands of the Government is used for political ends or against a particular party or a set-up, then it is certainly a serpent in our body-politic, a more poisonous serpent than the mal-practices themselves.

But if it is used with the intention—as I have just now said, sincere intention—of removing these mal-practices, then, Sir, not only I, but I hope all members of the House would welcome this legislation.

**Mr. Abul Kasem Khan (East Bengal : Muslim) :** Mr. President, Sir, I congratulate the Honourable the Prime Minister on bringing forward this Bill. I know this will be considered as a unique piece of legislation, because I doubt if in the history of legislation any Bill of this nature could be found. But, Sir, we must remember that the circumstances are also unique and abnormal. Unfortunately, the last World War not only disrupted many a home, many a country and many an Empire but disrupted morals all round and almost in every country. Sir, we have achieved Pakistan with the avowed object of doing something good, something great, for our people. If our foundations, if the pillars of our Society, the pillars of our public life be rotten, be moth-eaten then what hope is there that we should be able to raise a fine edifice on those pillars? Sir, public opinion, in whatever form or shape it exists in this country, has been demanding—rather persistently demanding—that the people who are at the top, who are Ministers of Government, who are Members of the Legislature, should set an example. Sir, it is a well-known saying that example is better than precept ; so we have made up our minds that we should set an example. As a matter of fact, the original intention of the Prime Minister was that only Ministers of the Government, Parliamentary Secretaries and Deputy Ministers should be effected, but we voluntarily offered that we should not be spared. We are prepared to set an example to the country and we hope, Sir, that this Act, which may be called a “Purging Act”, should be used judiciously, impartially, without fear or favour, of persons, however high or however insignificant, and we know that our Government have asked for powers which may have been considered drastic, but which the House have gladly placed in their

hands because they have the confidence that these powers will be rightly and justly used.

Sir, one of the great weapons for checking abuses like nepotism, corruption, favouritism is public opinion. Unfortunately that public opinion does not exist in our country with the same force and the same power as it exists, say, in the United Kingdom, where the standard of probity in public life is very high, where a mere breath of suspicion is enough to remove a Minister of the British Cabinet. Sir, we expect—and the people of the country also expect—that in Pakistan we should be able to raise the standard of morality and to raise it so high that we may really be proud of our country and call it Pakistan in the true sense of the term.

Sir, as I have said it is a unique piece of legislation, specially due to the fact that the ingredients of offences prescribed hereunder are very difficult of definition.

**The Honourable Sardar Abdur Rab Khan Nishtar** (West Punjab : Muslim) : But very easy to understand.

**Mr. Abul Kasem Khan** : I agree that people know what is corruption, people know what is nepotism and in some cases nepotism is far worse than taking bribe. I wish we could define it better but unfortunately the vocabulary at our disposal does not permit of a better definition of these offences ; so we have to leave wide powers, but we are leaving those powers in hands in whom we have confidence; because those are the hands of the Governor-General and of the Governors of the Provinces and the Governor-General and the Governors of the Provinces will move only in their own discretion, not on the recommendation of a particular Party in power. So we have provided the safeguard that the Governor-General and the Governors in the Provinces who are, and who should be, people above party politics will apply their impartial mind to the facts of the case and when they are convinced that in a particular case a Tribunal has to be set up they will do so.

Sir, before I sit down I again appeal to the country, to the Press and to the public at large through this House that they should come forward to help the administration in their determination to purge public life of all corruption, of all nepotism of whatever kind or type and of all types of jobbery and since we are setting an example we are determined, and the Government, I hope, will come forward soon with another piece of legislation by which they will make it impossible for public servants of all classes and categories to be influenced by considerations which are not correct or honest. Sir, then and then only, we shall be able to lay true and strong foundations of Pakistan.

**Mr. M. H. Gazder** (Sind : Muslim) : Sir, I rise to support this motion and pay my humble tribute to the Honourable the Prime Minister for his effort to purify our public life. We are all aware, Sir, that allegations are being made publicly or privately against our Ministers, both Central and Provincial, and other public men. The only way, Sir, to put a stop to this campaign of vilification is to give opportunity to people who really know anything that there is something rotten in the State of Denmark to come forward to prove charges and help us in eradicating these evils. Sir, there are no two opinions about this. One, that is a very exceptional law. It gives very wide powers to the Governor-General for removing the canker from public life. Again, Sir, there are certain unfriendly critics who say that this is a piece of legislation on the lines of Nazi Laws.

**The Honourable Mr. Liaquat Ali Khan** : Under the Nazi rule they would have been shot !

**Mr. M. H. Gazder** : I want to submit to these friendly people that the evil that we want to remove under this legislation is of this kind, namely, misconduct which means bribery, corruption, jobbery, favouritism, nepotism,

[ Mr. M. H. Gazder. ]

mal-administration, misapplication of public funds—I shall also explain how is this engine of oppression going to be used. Section 3 lays down that if any person is found judicially guilty he will be punished. The Honourable the Mover of the Resolution, the Prime Minister, has made a definite provision and there are certain amendments coming before the House so that the whole thing will be decided by judges of the High Court, only those who are holding office of High Court Judges and not those who have been or who are eligible to be High Court Judges. That is, those who are actually sitting on the High Court benches shall try the accused and the person accused will have the fullest opportunity to clear his conduct. After that if he is found guilty of these offences, the punishment provided is disqualification extending up to a period of ten years; it might be one year, it might be ten years. But, Sir, today the malady is so serious in our country and in other countries of the world that if people or men who are supposed to enjoy public confidence and who hold public offices and if they have been found guilty of these offences they have been shot or ought to be shot. So the punishment provided is not serious at all. It is true we have not been able to define these words 'jobbery', 'nepotism' etc., but I am sure when any judge decides any case he will surely take any allegation of jobbery placed before him into consideration whether it is a heinous offence on the part of a public man or not. Therefore we need not worry about this being defined. My friends who spoke before me have said that this legislation alone cannot improve this state of affairs. I join them in their appeal to the public that we must improve our standards of public life and without public opinion, as expressed in the Press, we cannot improve our standards. It is high time that in order to establish our reputation in the counsels of the world we must educate public opinion and improve it so that these offences should be considered condemnable by every man. I welcome this measure for one special reason that we, who are in public life, are being harassed by all sorts of gentlemen making requests for this recommendation or that recommendation, seeking favour from this officer or from that Minister. I hope, Sir, after this Bill is passed into an Act that harassment will cease.

Then they say that the Governments in power in the future are going to be party Governments. It will, therefore, be a big engine of victimization of opponents in public life. That is not correct as far as the Act goes, I want to bring this to the notice of the House and public that Government does not come in anywhere in the Bill. Therefore any party Government does not come in at all because nowhere is Government provided with powers of initiative of an enquiry. There are amendments proposed which will surely be accepted by the House whereby Governor-General and Governors are required to act in their discretion; that is, they are not bound to consult Ministers at all. So, the criticism that the party in power being able to victimise their political opponents does not find any place in the Bill at all. But all the same, Sir, the rules are going to provide that any 5 or 10 persons from public life can also put this engine in motion by making application to the Governor-General or the Governor concerned and the Governor-General or the Governor concerned will have at his disposal some means of finding out whether there are a *prima facie* case made out or not before appointing a tribunal. So, there is no danger on that account also from party in powers alone.

Lastly, I want to submit for the consideration of Government one very important matter which bears on this subject, and that is the conduct of public servants. Ministers or M.L.As. or any man in public life who seeks any favour, does so through officers. Officers themselves are so corrupt and they are also practising so much of nepotism and jobbery that although we cannot bring them under this Bill, Government must tighten their rules of conduct of Government servants and should see that none of these evils is practised by officers of Government with immunity.



**Prof. Ishtiaq Husain Qureshi** (East Bengal : Muslim) : Sir, as I was coming into this House a friend observed to me that it was rather strange that a people which had shown such tremendous amount of enthusiasm and idealism before the achievement of Pakistan had shown such lack of moral feeling after achieving it and I felt that the observation was quite true. But what are the reasons? The reasons are unfortunately that many a leader who was responsible for creating this idealism and this enthusiasm fell a victim to the temptations which were created by the creation of a new State which brought in its wake new avenues of profit and of power. And, therefore, it is absolutely essential that leaders of public opinion who hold high offices today, who represent the people in the various Legislatures of the country, Provincial and Central, should set an example and if there are any black sheep, as unfortunately there are, they should be dealt with severely, as severely as this Legislature can possibly make it.

Now, Sir, it has been said that corruption is rampant in certain walks of life. I do not know whether the amount of corruption is really as great as is generally believed, but there is not the least doubt that there is considerable corruption. It has also been said that the Anti-Corruption Department, which was created by an Act of Legislature, has not been able to put a stop to that corruption, and it has not been able to get hold of the real criminals. What is the reason? Sir, the reason is that the real criminals are so well protected, because they very often sit in seats of authority; and unless through an Act like this we are able to pull them down from their seats of authority, it will be of no use whatsoever to get hold of the smaller fry. Smaller fries do not really matter and, therefore, I would suggest that this House should give its support to an Act like this. It has been said that this Act puts a most powerful weapon in the hands of the Government. I am surprised at a statement like this, because it is not the Government which is going to decide whether a person is corrupt or not. There has to be a proper judicial enquiry. It has to be a court of law which has ultimately to decide whether a person is corrupt or not and if, Sir, I am not able to prove my innocence before a court of law, I have no right whatsoever to act in any representative capacity. The Government can at best bring charges. Even that is provided for. I believe, the Governor or the Governor-General is going to decide if I am to be tried in his own discretion and not on the advice of the Government. But whosoever be given the authority of taking me to a court of law to prove that I am corrupt, if I am innocent, I should not mind so long as my offences are looked into by a proper judicial authority and I think, Sir, that the very fact that I am to be tried either by a High Court or the Federal Court or a specially set-up tribunal consisting of High Court Judges, the very fact that provision has been made for this shows that the Government or the Executive have really no authority in debarring me from public life. It is absolutely wrong to compare this Act to any Nazi Law. The Nazis did not try people. They shot them. I do think, sometimes, in my moments of weakness, that the Government should occasionally shoot a person or two, but unfortunately they do not do it and they are not authorized to do it and now they propose the most democratic way of dealing with criminals. We know how often it is difficult to prove in a court of law something which is absolutely true, because a person may have done a thing and yet there may be no evidence against him. We know this and when the Government have brought this mild democratic measure before this Assembly, they are being criticized for being Nazis. Nazis were ruthless, Nazis were efficient and Nazis even in their crimes, knew their minds. I am no supporter of Nazi laws, but I do say, Sir, that this mild measure is certainly not comparable to any totalitarian law. Reference has been made to public opinion. Sir, it is quite true that public opinion should play a very great part in achieving the purpose which is envisaged in this Bill. But public opinion has to be formed.



[Prof. Ishtiaq Husain Qureshi.]

Public opinion will be formed only if our internal publicity works hard enough for that purpose. This is no occasion to criticise our Publicity Department, but I would put it to the Minister responsible for it that internal publicity should be strengthened to such an extent that every person knows that if he is abetting, in any way, a criminal act or is asking for a favour at the expense of any other citizen he is digging the grave of his own children and his own family. They should know it, but unfortunately the whole matter has not been made clear to them. And, Sir, through this House and through you, I would appeal to the religious leaders of this country, the heads of the various religious denominations, the religious preachers and others, to make it a foremost plank in their preaching that anything which is done to get an unfair advantage over a neighbour or a fellow citizen, is the most heinous crime which will not be forgiven by God, because it is not an act against God alone ; it is an act against God and man. If our religious leaders and religious teachers devote a little more time to this, they will do a great service not only to this country, but to the humanity at large. Sir, our moral vision has got clouded. We generally think that religion is only a method of escapism. There are a large number of people amongst us who think that so long as they pray to God, they can go on doing just as they please. I would, therefore, appeal once again to all our religious leaders to help us in purging the country of this chronic disease of corruption, nepotism, and favouritism, all of which can be really summarized as a craze for getting an unfair advantage over another, a craze for using any means that may be in our power, fair or unfair, for the sake of gaining a little point of self-interest. With these few words, I heartily support the motion.

**Mr. Nur Ahmed** (East Bengal : Muslim) : I rise to accord my whole-hearted support to this most important measure, which is now under the consideration of this sovereign Body. Sir, this Bill, if passed into law, will usher an era of purity, integrity, propriety and rectitude in the public life of Pakistan. There is a widespread demand on the part of every Pakistani that public life of Pakistan should present to the world that high standard of purity, honesty, integrity, propriety and rectitude which Islam has taught.

Sir, our beloved Quaid-i-Azam, the Father of the Nation, in this very Hall, soon after his election as president of this august Body, laid great stress on the prevention of this evil.

He said, Sir—

“that the second thing that occurs to me is this. One of the biggest curses from which India is suffering—I do not say that other countries are free from it, but I think, our condition is much worse—is bribery and corruption. That really is a poison. We must put that down with an iron hand and I hope that you will take adequate measures as soon as it is possible for this Assembly to do so.

Black-marketing is another curse. Well, I know that black-marketeers are frequently caught and punished. According to our judicial notions sentences are passed, and sometimes fines only are imposed. Now you have to tackle this monster which today is a colossal crime against society.”

And then, he said, Sir—

“The next thing that strikes me is this. Here again is a legacy which has been passed on to us. Along with many other things good and bad, has arrived this great evil—the evil of nepotism and jobbery. This evil must be crushed relentlessly. I want to make it quite clear that I shall never tolerate any kind of jobbery, nepotism or any influence directly or indirectly to bear upon me. Wherever I find that such a practice is in vogue, or is continuing anywhere, low or high, I shall certainly not countenance it.”

Sir, these are the historic words uttered by the Father of the Nation in this very Hall. I am very glad that those words of our beloved Quaid-i-Azam have appeared in this Bill to materialise his ideas. Sir, this Bill is to crush the causes of the evils that are rampant in Pakistan. Pakistan is for the people of Pakistan and their standard should be that of high morality and there should be

good standard of purity, integrity and rectitude. There should be no nepotism, no jobbery, no corruption, no favouritism but today, to our great disappointment, we find that after our 16 months, we have not been able to crush down this evil from the public life of Pakistan.

Sir, it is said that Pakistan is the largest Islamic State. Sir, those who are students of History know how during the period of *Khulafa-i-Rashideen*, the whole public life was kept pure and how the signs of nepotism, favouritism, signs of jobbery, were put down. Even Hazrat Omar did not spare his own son, he went to punish the man whoever came under the ambit of law. Sir, even great Commander like Hazrat Khalid, who was a great Islamic leader and was used to be called the Sword of Islam, and who fought very mighty battles, was not spared when he committed an act which was not sanctioned by the law of the land, and he was dismissed by Hazrat Omar in the midst of a great battle.

Sir, coming down further we find that Abdur Rahman the Third was the great Emperor of Spain who reigned in Spain for more than 30 years. He also did not spare to execute his own son, the only son, when he was found guilty of high crime. It is history that tells us that he lived for 30 years more after that and nobody saw a smile on his face. He was so much shocked and so much sorry, but he allowed the law to take its own course. I feel today very much happy when I see that I have been able to take part in the passage of this Bill which is going to purify the public life of Pakistan. Sir, it has been said in this very House that people are gradually losing faith in the administration when they see that only small fries are put up for trial for corruption and jobbery while the biggest ones escape the punishment of the law.

Sir, I congratulate the Leader of the House on his bringing forward this Bill as a successor of the Father of the Nation. Sir, today really is the red-letter day in the history of Pakistan and this day will be remembered for generations and generations to come as an epoch-making day on which Pakistan took a stand, a very bold stand to purify the life of Pakistan. Sir, several criticisms have been levelled against this Bill that the party in power may use the extensive and wide powers conferred on them by this Bill to put down his opponents. Sir, ample safeguard has been provided in this Bill that only the Governor-General or the Governor in his discretion shall take initiative in this matter. The other criticism that has been levelled against the Bill is that no power has been given to the people of Pakistan to take initiative in the matter.

Sir, I think there is nothing which will bar any Pakistanee from approaching the Governor-General or any Governor to present facts and figures against any high dignitary or functionary that he is guilty of any offence, as is mentioned in this Bill.

Sir, with these few words, I strongly support the motion for the consideration of this House.

**Mr. Sris Chandra Chattopadhyaya (East Bengal : General) :** Mr. President, I welcome the Bill introduced by the Leader of the House. I welcome also the principles of this Bill. It is high time that an Act like this ought to be adopted by this House. It is true there are some defects and some lacuna in this Bill and I am sure, there are some amendments and if they are adopted, those defects will be rectified. I do not wish to enter into details about the necessity of this Bill. It has already been spoken by several members. It is high time that these scandals are to be removed. We always hear from the people generally about the nepotism, favouritism and other things, not only from the people at large, but also we hear sometimes from the Ministers themselves, and, I regret to say, that even the Members of this Assembly paste the authorities for favouritism and they cannot avoid the request. This is well-known to the Ministers themselves also. This must be stopped. Mr. President, I support

[Mr. Sris Chandra Chattopadhyaya.]

12 Noon. the Bill wholeheartedly and I wish that some of the defects ought to be cured by the adoption of some amendments. I do not say that it is a stern measure. It does not smack of Nazism or Facism. To purify administration if strong measures are adopted it does not smack of Nazism or Facism. I feel it is a proper thing to do that. With these words I support this Bill and I do not wish to go further because already we have taken much of the time of the House.

**Mr. Serajul Islam (East Bengal : Muslim):** Mr. President, I rise to support this motion of the Honourable Prime Minister. We are determined to pass this Bill into law. We are tired of the offences described in the Bill and we are determined to put an end to them. Sir, so far as the principle of the Bill is concerned there can be no two opinions than to support it wholeheartedly but so far as the application of this law is concerned, Sir, I should like to make an observation. Sir, it is said and it has been said previously by some of my friends that when a judiciary of a high calibre is going to pass a judgment there can be no handling in the affairs by the Government or by those who are at the helm of administration. But, Sir, so far as the prosecution is concerned, who is the prosecutor? If a case goes up to the judiciary we shall then get the judgment of that judiciary but who is going to prosecute? We are told that the prosecutor is the Governor or the Governor-General. But so far as the appointments of these officials, these highest officials of the State, are concerned, this House has nothing to do. We are told that this august Assembly is the highest authority of Pakistan but so far as the appointments of these Governors and the Governor-General are concerned, this House, as a matter of fact, has no power. In the recent appointments we have seen that this House had no power. By saying that this House has no power, I mean that the Cabinet has practically nothing to do with this and this House is not required to give even any assent to these appointments. These appointments, the appointment of the Governor-General in particular as far as I know, are made by the King. But how the King makes these appointments? The King makes these appointments, so far as my knowledge goes, on the recommendation of some authority. And who is that authority? That authority, I think, is our Cabinet. The members of the Cabinet, Sir, I am trying to develop, are ultimately responsible for making these prosecutions because the Governor-General is not in direct touch with the details of the administration. He necessarily has to take the advice and opinion of the members of the Cabinet. Therefore, Sir, my observation is this and this is my appeal to the members of the Cabinet and to those who at any time in future may be the members of the Cabinet, that the responsibility now-a-days is very very great. The administration will undoubtedly be run on a party basis and if any party comes in power in the administration, they will be the real prosecutors in my opinion and therefore this party spirit may have some part to play in the prosecutions and that is dangerous. Therefore, I make an appeal to the Honourable Members of the Cabinet again that when we are really determined to pass this law and we shall pass this Bill into law immediately and the moment it will be put into force, it should be used, I hope, very carefully and with as much caution as possible. With these words, I wholeheartedly support this motion.

**\*Mian Muhammad Iftikharuddin (West Punjab : Muslim):** Mr. President, Sir, I join all the previous speakers in welcoming this measure as I also join them in hoping that it will not be used for party purposes or for personal reasons. However, the fact that the Bill will not be used for party purposes or to bolster up a particular regime or a set-up is only a negative assurance which I have no doubt will come from the party in power. So far as the

positive object of this Bill is concerned, I have a fear that we shall not be able to achieve that. Mr. President, everybody is agreed that corruption, mal-administration, jobbery, nepotism is a bad thing and if these things were done in too blatant and open a manner, I have no doubt that there are very few people whose conscience is so loose that they will not object to it and I have no doubt that no matter how low the level of political consciousness in the public may be, even this public is bound to object and is bound to run down and is bound to denounce any jobbery, any corruption which is done very openly but the corruption and jobbery and mal-administration which we cannot control and which we are not going to control under the present arrangements are imperceptible. Perceptible jobbery, perceptible corruption perhaps we may be able to control to a point but the more dangerous and more important and the more prevalent corruption, jobbery and mal-administration is imperceptible which, I fear, we shall not be able to control and that arises, Sir, from our present political attitude towards everything in Pakistan. Unfortunately, we have misunderstood the meaning of the words 'disagreement' and 'disruption'. These days disagreement is permissible to us. Disagreement to us is a disagreement between two rivals, two aspirants, for the same office; two rival political workers and two members of the Legislative Assembly fighting for Premiership. That, to us, is disagreement and we consider it perfectly within the rules of the game and we permit it. Disruption is considered by us a disagreement of views, which, to us, is a harmful thing and which at time we may even dub as *kufr*. So long as this incorrect point of view prevails in Pakistan, Pakistan will not be able to raise the standard of political morality and Pakistan will not be able to prevent imperceptible jobbery and corruption that are going on in this land today. We should once for all understand and that disagreement is a most welcome thing and there is no harm in having differences between political parties, between different parties and between different ideologies. Unless we have that, we cannot have democracy. In fact, that is a proof of the life of the people, a proof of their activity, a proof of their political consciousness, a proof of their desire for progress. That disagreement should be permitted. On the other hand, disruption is a bad thing and that is what we are doing every day in our Provincial Ministries, if not at the Centre. Disruption leads to differences between personalities, differences not of principles but of social ends. That, to me, is disruption and unless we curb it and put it down and unless we permit disagreement in political views and the propagation of various political ideas and ideology, we cannot raise the level of politics in this land to what it should be, namely, the highest thing that there can be for human endeavour and for human comfort.

Sir, these days, as is well-known, Ministry-making, fighting for leadership and for throwing one set-up and bringing in another, is considered to be a very amusing game in Pakistan. Ministry-making is not considered a public trust and one of the most sacred jobs that a human being can aspire to and can work for, but it is considered as a means to rise to power. In fact, people take interest in Ministry-making and in becoming leaders of various parties both in Municipalities, District Boards or Provinces, as if it was just like going to the races, or kite-flying and such other things. As a matter of fact, the other day a friend of mine was telling me in a jocular manner that drinking has been stopped in Pakistan, gambling may soon be stopped and the day the Provincial Ministries are liquidated there will be no fun in Pakistan and one might as well go out of Pakistan and live elsewhere.

**Dr. Mahmud Husain** (East Bengal : Muslim) : On the point of order, Sir. May I request the Honourable speaker to say a few words also on the Bill ?

**Mian Muhammad Iftikharuddin :** May I point out to the Honourable Professor that I am talking directly on the Bill and mainly on the imperceptible corruption that will go on and that goes on in the lobbies when Members are being roped in and when Members' support is being enlisted not by the passage of currency notes or by the tinkling of money but when Members are bought for promises of Ministries, promises of Parliamentary Secretaries and—I hope that will not come—promises of Deputy Ministerships. That, to me, is the most dangerous corruption and that is the imperceptible corruption that I was talking about. So, I was talking directly to the point. In fact, today people talk more in a general way than with regard to any particular individual. So, it is commonly understood in the day-to-day administration that jobbery, corruption and nepotism are bad things. There is no religion in the world, there is no country in the world, there is no ideology in the world, there is no party in the world which does not say so. In fact, it is a truism; but it is a mere platitude to say that jobbery is a bad thing. I want you to go to the root of the question. We have all said throughout the centuries that jobbery, corruption and nepotism are bad things and we should get rid of them. However well intentioned the Mover of the motion may be, my point is that imperceptible jobbery and imperceptible corruption will not go and that is how mal-administration comes in. We have to day treated the politics in this country—it may not be so in certain Assemblies or at the Centre but it is certainly the case in Municipal Committees, Panchayats, District Boards and upwards—in a manner which, generally speaking, leads to corruption and which will continue no matter how keen you may be to apply this Bill as early as possible. They arise from the wrong angle from which we look at politics. We look at politics as a personal thing. We look at politics as a fight between two aspirants for an office. Unless we introduce principles into politics, unless we admit differences of political views, unless we admit differences of ideology and the justification for working for one's own ideology to the best of one's ability,—unless all that is done, political life will remain a personal fight in Pakistan or in any country. Until that happens, imperceptible corruption and imperceptible jobbery will continue and mal-administration is the natural outcome of that. Take, for instance, my own province. For the last ten months there has been no administration because people are fighting amongst themselves for 18 hours a day trying to rope in more members for their own Groups. How on earth can you have proper administration under those circumstances? That is what I was referring to when I said that imperceptible jobbery, imperceptible corruption and imperceptible mal-administration will continue and you will not be able to get rid of them until you understand the difference between disruption and disagreement and until you make up your mind to crush disruption and encourage disagreement.

**Begum Jahan Ara Shah Nawaz (West Punjab : Muslim) :** Mr. President, Sir, I rise to give my whole-hearted support to the Bill which is being discussed on the floor of this House today. I had no intention of speaking this morning because I thought that this Bill was so very important and so very necessary and so very useful that there can be no question of any one wasting the time of the House and of the busy officials by getting up and talking about it. But unfortunately certain remarks of my brother who has just finished speech have necessitated that I should open my lips about some of the questions that he touched in his speech this morning.

First of all, I would very much like to join in what Dr. Qureshi said in his speech just now that our nation that has shown such high principles, high level of morality and such excellent character in fighting the battle for freedom

and liberty did not show the same high moral sense when we won the battle. When it came to the question of every pie that the evacuees had left behind them going into a *Baitul Mal* or being collected by the Pakistan Government or when it came to the question of pocketing and dividing the loaves and fishes, even some of the persons in high authority succumbed to it. Unfortunately, in my province it may have been perhaps more perceptible than anywhere else. I say today on the floor of this House openly—I know some of the officials will accuse me if I say so—that it has been more in my province than anywhere else that some of the highest in authority have connived in all the jobbery, corruption, nepotism and dishonesty that has been rampant in the province.

Mr. President, there is no such fight in the Punjab today as my Honourable friend has just told you that the present tangle is only a mere faction between two sections or two Parties who are fighting for power. It is not that, neither is there a fight going on for Premiership only either in the Punjab or anywhere else. Unfortunately the standard of administration has become so low, the working of the different Departments is at its lowest ebb today and it is people like ourselves who feel that unless something is done, or some change is brought about, it will be almost impossible for the administration to be run on the lines that it should be run. It is not an open secret if I say that some persons in the highest authority have voiced their sentiments, privately and openly about it.

I do hope, Sir, that the measure which we are discussing today will be utilized as soon as possible in putting things right in every part of Pakistan. Unfortunately dishonesty is not confined to a few, neither is nepotism being practised by a small number only. Practically all over Pakistan, in every Province such things are being witnessed every day and are being practised by some of the persons in high positions. This state of affairs could not have lasted long and should not last long, but unfortunately by utilising that very power, which is a hurdle in their hands, such persons are sticking to their seats—seats which they should have vacated long ago.

Mr. President, Sir, the people know this. Fortunately for us, the people who are the sovereign power of the country today, know who is honest and who is not and they are already taking things into their own hands. Sir, you may be surprised to know that during the recent Muslim League elections in many of the districts in the Punjab—not only in the districts but even in small villages where the primary elections had been held—all those who were in power and who, many of us thought, would be able to retain their seats have been unseated, practically finished overnight, and persons with integrity and honesty, have been placed in their seats and it is these persons, whose majority has been reflected in the Muslim League Provincial Council that are trying to put things right. It is this party that is coming into power and that fortunately for us, Mr. President, is a Party which I hope will stand up for high moral standards, for honesty, integrity and for the real and true principles of Islamic religion.

Mr. President, Sir, it is wrong to say that there is party faction or party strife only going on in our Province today.

Well, Sir, what I would like to say to the Honourable the Leader of the House is this that I do hope that this Bill will not be confined to only one small circle of people being brought to justice or brought to book, but that it will be utilized as a hurdle, as it should be utilized, in eradicating corruption, dishonesty and nepotism practically all over Pakistan and every nook and corner of our country will be wiped of mal-administration.

With these few words, I whole-heartedly support the Bill.



**The Honourable Sardar Abdur Rab Khan Nishtar :** Mr. President, I had no intention to participate in today's debate, because I know that the Honourable Mr. Liaquat Ali Khan, the Leader of our Party in this House, is in charge of this Bill and he is fully competent to do justice to the debate. In this House we are not as a Government but as Members, or if any collective existence can be recognised it is that of parties in this House. But a few observations have been made, either intentionally or they have fallen from the lips of certain Honourable speakers unintentionally, which have prompted me to make a few submissions for your consideration.

Some of the Members stated that our people have fallen from that high place where they were while they were struggling and fighting for the establishment of Pakistan and it is on account of that that corruption and all those evils that have been included in the description of "misconduct" are rampant. I hope they will forgive me if I say that they are not doing justice to their public. I for one am not prepared to admit that our nation has fallen from that high pedestal. It is only a few and it is that particular section which is being aimed at by this Bill. The very fact that the whole of the public has acclaimed this Bill and the very fact that, as has been disclosed by one Honourable Member, originally it was proposed to include only Ministers, Deputy Ministers and Parliamentary Secretaries but the Honourable Members themselves offered that they should be included in this Bill shows that our nation as a nation has not fallen from that high pedestal. Of course, on account of certain unsettled conditions taken together with the legacy that Pakistan has inherited—and also taken together with this fact that the democracy that we have got today is of the Western pattern which by itself carries with it certain jobbery and favouritism and other kinds of evil—we do find some here and there. Mr. Liaquat Ali Khan, as one in charge of the administration of this country which we call Pakistan feels that, as is said in Urdu, "one fish pollutes the whole tank" we must take the note of these putrid fishes and must remove them so that the tank may not be spoilt. Therefore, I would respectfully submit that while supporting this Bill and expressing enthusiasm in support of this Bill and the high objective that it has got in view no injustice should be done to the nation as a whole. Sir it is not on account of any prejudice in favour of my nation or on account of any bias that I feel like that. I can definitely say that so far as our people are concerned, in spite of all the difficulties that have been created in their way, in spite of all the unsettled circumstances which necessarily affect the morale of the people, they have not gone down to that extent as has been described by some of the Honourable Members, I am sure unintentionally.

Sir, unfortunately, certain discussions extraneous to the object of this Resolution also crept into this House.

One Honourable Member expressed one opinion about a certain section of people or administrators; another Honourable Member gave it a different version. When I was listening to this interesting controversy I was reminded of the saying of "Saadi" when he was passing by a school and one of his verses was being discussed by students who were putting such interpretations upon that verse that were never intended by him. He said:

*"Shere mara ba madrasah kihburd ?"*

*"Who took my verse to the school?"*

Anyhow the discussion took place and I hope that has ended.

One of the Honourable Members said that some people feel that this measure smacks of Nazism. I was really surprised to hear that because anybody in his senses cannot describe this measure as smacking of Nazism. Of course mad men do exist in the world but so far as the sayings and utterances of mad men are

concerned they are not considered worth quoting in an august Legislature like this. What is this Bill and what does this Bill say and what is there which may create suspicion even if that nature which has been expressed by Mr. Serajul Islam—that the Government or the party in power can use it, rather correctly saying abuse it—in support of their party. This Bill says that if a Governor or the Governor-General feels that a particular Minister or Deputy Minister or a Parliamentary Secretary or a Member of a Legislature should be tried for the things which are mentioned in the description of misconduct he will move the Federal Court or a High Court or will set up a Tribunal consisting, according to a certain amendment which clarifies the intention of the Mover, of High Court Judges alone and not retired High Court Judges. Those courts, and I can correctly describe the tribunal also as court, will take cognisance of the case, will try the man and will give their findings whether he is guilty of the charges or not, and if they say that he is not guilty then neither the Governor-General, nor the Governor has any power to further pursue the matter. Even if they find him guilty, the Governor has no power whatsoever except to bring the case to the notice of the Governor-General because so far as the disqualification is concerned that power has been vested in the hands of the Governor-General and Governor-General alone. Reference to the tribunal has been permitted to the Governor but so far as the final order is concerned that has been confined to the Governor-General alone. So the case is to be tried by experienced people, judicially trained and those whose position is quite safe on account of being Judges of Federal Court and High Courts. They will try the case; they as a matter of fact, to all practical purposes, will be the final arbiter because they will decide whether the man is guilty or not and in case they acquit him then nobody can catch him. Therefore the question of oppressing any person does not arise. However, one can say that if he is found guilty then in that case the Governor-General may not give him that punishment which he deserves, for instance, instead of ten years he may disqualify him for five years. On that point there is some allowance but that allowance has to be allowed because offences differ in nature and from the point of view of their seriousness. And, therefore, you can not lay down that the disqualification should definitely be five years or ten years in minor cases as well as in major cases. For that purpose somebody has to be given that authority. This is in accordance with accepted principles and practice. When election tribunals are set up, they make a report. The report goes to the Governor or the Governor-General as the case may be and in pursuance of that he passes order that the fellow should be disqualified up to six years in some cases and up to five years in another case. These things are always done in this way and no new precedent has been established and even if a new precedent was to be established it does not mean that nothing new should be done and you should always beat a beaten track. The disease exists; all say that something should be done to remove it. For that purpose and in accordance with certain established practices a formula has been put forward by Mr. Liaquat Ali Khan as a Member of this House and not as Prime Minister of Pakistan because in the Constituent Assembly he is not the Prime Minister but is a Member. He has not given any say to the Government. Does this not show that the Government has no intention whatsoever that the Act should be used to oppress their opponents? I again say that it does not give any power to the Government except that a certain amendment suggests that rules are to be framed by the Government. This amendment has come from both sides of the House. I think the House will agree to it and nobody will oppose it so far as the Government as such is concerned; it does not come in anywhere. It is the Governor-General and the Governor who are being empowered, and so far as the final order is concerned only the Governor-General has the power. My friend, Mian Iftikharuddin, said that unless certain principles are understood by the public this legislation is not going to achieve its objective. He used one word several times that the “imperceptible” nepotism and favouritism will

[The Honourable Sardar Abdur Rab Khan Nishtar.]

not be rooted out by this legislation. May be that he is correct but by necessary implication he means that so far as perceptible favouritism is concerned, perceptible jobbery is concerned, perceptible corruption and bribery is concerned, at any rate, that will be rooted out. So far as imperceptible things are concerned he says that it is only by improving the understanding of the people that this can be corrected and I would not join issue with him on this matter. But I would say one thing that it is not for the Legislature to appoint people to go out and propagate these principles. The Legislature has to frame law and the law has got its own limitations and has to work within this limitation. That is why in this act it has not been provided that lecturers should be appointed to go round and improve the understanding of the people. It urges that we should frame a law which may, according to Mian Sahib, at any rate, succeed in putting a stop to these heinous things if they are perceptible. It is hoped that even where they are imperceptible they will be rooted out and I for one.....

**Mian Muhammad Iftikharuddin :** On a point of personal explanation. What I meant was that we should not be under the wrong misapprehension that this law will uproot all types of corruption. In fact more dangerous types will yet remain. Nevertheless this law should be passed.

**The Honourable Sardar Abdur Rab Khan Nishtar :** I accept it. We know that from time immemorial the Word of God reached the people and the Word of God said : "Thou shalt not commit adultery". In Quran it was stated :

"*La Tagrabuz Zina.*"  
"Thou shalt not fornicate."

But inspite of that adultery is still there. If a law framed by God has not succeeded in completely rooting the evil out it will be too much presumptuous on the part of this House to say that our law will succeed where the Law of God has not succeeded so far.

But we can only hope that, at any rate, it will deal with one section, it will work in support of the law of God, because according to the law of God and according to the principles of every religion, there should not be favouritism, there should not be corruption and there should not be bribery and all these evils must be rooted out. In pursuance of all this, this measure is proposed. We will succeed *Insha Allah*. But even if we do not succeed, may I remind Mian Iftikharuddin Sahib of a very old saying—it is better to have tried and lost than never to have tried at all.

**Mian Mohammad Iftikharuddin :** We have tried.

**The Honourable Sardar Abdur Rab Khan Nishtar :** I only want to try more.

**The Honourable Mr. Liaquat Ali Khan :** Sir, as I expected, the Bill which is before the House has received the universal support from all sections of this House. My task has been made lighter by the speech that was made just now by my Honourable friend, Sardar Abdur Rab Khan Nishtar. He has, in fact, dealt with most of the points that were raised by various speakers and I should not like to waste the time of this Honourable House, by repeating the same arguments. I support and endorse every word of what has been said by my Honourable friend, Sardar Abdur Rab Khan Nishtar, regarding the integrity and honesty of the nation as such. If the whole nation had been corrupt, then, Sir, I can tell you neither I would have had the courage to come with a measure of this type before this Honourable House nor this House would have had the courage to pass such a measure. It is because we are convinced that the nation is honest, and it is only a few individuals who have gone astray that we have come forward with this measure.

Sir, there were certain points raised by Mr. Nazir Ahmad regarding the rules that are to be framed under this Act. I can assure him that when the rules are framed all his suggestions will be very carefully considered.

Some of the Honourable Members stated that misconduct as elaborated in this Bill should also be made an offence in the case of Government servants. As the Honourable Members know, there are Government Servants Conduct Rules and I can assure them that if they are wanting in this respect, it will be done. It is our desire and intention, as I said in the beginning today, to do our best to eradicate this evil from our State. Sir, I must admit, maybe I am rather dense, that I find it rather difficult to understand all the implications of the speech of my Honourable friend, Mian Iftikharuddin. He repeated again and again that we should not stop disagreement, but we should encourage disagreement if we really want the public life in this country to improve.

**Mian Muhammad Iftikharuddin :** I said constructive type of disagreement.

**The Honourable Mr. Liaquat Ali Khan :** I do not see, Mr. President, how this Bill prevents any disagreement unless it be that Mian Saheb does not regard misconduct as something which is heinous. He is certainly, as far as I am concerned, at liberty to go and preach this throughout the country. Only he should be careful that he himself is not guilty of misconduct. Otherwise he will come under the mischief of this Act.

**Mian Muhammad Iftikharuddin :** You will catch me.

**The Honourable Mr. Liaquat Ali Khan :** Sir, I would say that it is not the desire nor the intention of this Constituent Assembly to prevent the formation of various parties. So I really was at a loss to understand as to what my Honourable friend, Mian Saheb, meant when he waxed eloquence on the differentiation between disagreement and disruption. Any individual, any citizen of Pakistan today is free to start any political party, preach any political ideology. I could understand if we were stopping the formation of any political parties in Pakistan. I cannot help it, nobody can help it if a vast majority of people in this country has confidence in one particular party. Surely, Mian Saheb cannot expect me or any Member of this Honourable House to go round and tell people "do not have confidence in this party, because Mian Saheb wants that there should be one dozen or two dozen parties in the country".

**Mian Muhammad Iftikharuddin :** Our attitude has been this.

**The Honourable Mr. Liaquat Ali Khan :** I do want and I shall go on doing my best, not as Government, but as a citizen of Pakistan, that the Muslim League should be the strongest party in this country, and any individual, any citizen of Pakistan, is free to preach any other ideology that he may want to and I can assure Mian Saheb that we shall not take any action against that individual unless his object is to destroy Pakistan by methods which are illegal or not above board.

**Main Muhammad Iftikharuddin :** On a point of personal explanation, Sir, allow me to point out this misunderstanding which is dangerous from any point of view. I do not say that I wanted to support another party and that League should be replaced. All that I meant was that the attitude in Pakistan not only of the move of the motion, but of the public generally—not of public, rather of the leadership—had been that disagreement of personalities was welcome and that disagreement of Members was considered disruptive and harmful. That to me was wrong and that to me gave rise to unhealthy politics.

**The Honourable Mr. Liaquat Ali Khan :** Sir, I am afraid I do not know what my Honourable friend means. As I said, I may be very dense, I have not got that clear vision which is so much blurred as in the case of Mian Saheb. But, any how, I would not deal with that.

Mian Saheb told us a very sad thing about the affairs of his own province and he said that there were two groups and there was a regular wrestling match going on and Mian Saheb being a very cautious and careful person, in spite of the fact that he is a Member of the Punjab Assembly....

**Mian Muhammad Iftikharuddin :** And a man of principle and not of personality !

**The Honourable Mr. Liaquat Ali Khan :** Sir, as a man of principle, he found that when this bull fight was going on, the safest place for him was to be outside the arena. Well, Sir, of course it is a very good principle, wherever he finds any trouble, the best thing is to be outside that. But all that I wanted to say was this that if things are really bad in the Punjab, then it is the duty of every Member of the Punjab Assembly to honestly and faithfully put things right there. After all, the Ministers are not Heaven-born, the Ministers are the chosen leaders of the Members of the various Assemblies and if the Members of the Assembly are not really men who have courage, faith or determination, then it is no use trying to blame some Ministers here or some Ministers there. Therefore, I would suggest and I would request Mian Saheb that as a leader of public opinion in the Punjab, as a Member of the Punjab Legislative Assembly, his place is not to remain outside the arena and watch the fight from outside, but he should use his influence and exert in every way to see that the things are put right in the Punjab and that there is a Ministry—does not matter what the Ministry is—efficient Ministry, an honest Ministry, which has the confidence of the Legislature and the confidence of the people of the Punjab.

Sir, I do not think that there is any other point that needs an answer. Mr. Serajul Islam started telling us how the Governor-General is appointed. He said that the Governor-General is appointed by the King. Yes, but the King does not appoint him. He is appointed on the recommendations of the Cabinet and, therefore, the Governor-General is the creature—he did not say so—of the Cabinet. But, why did he stop there, why did he not go a little lower down ? The Cabinet is appointed by this Constituent Assembly and the Constituent Assembly is appointed by the people. Therefore, Sir, the Governor-General is appointed by the people. So, after all, in representative institutions, it is not every individual who can take part in every matter that is done. The thing comes up from below. The people elect the Constituent Assembly, the Constituent Assembly has a Government in which it has confidence, the Government makes recommendation under the Government of India Act, to the King, and the King appoints the Governor-General. So, therefore, and I can tell my Honourable friend, the remedy is in the hands of this Constituent Assembly and if the Constituent Assembly feels, at any time, that the Government had been guilty of mis-conduct, well, it is for the Constituent Assembly to turn that Government out and have a new Government.

Sir, a lot has been said about victimisation and harassment of political opponents. I think that point has been very ably met by my Honourable colleague, Sardar Abdur Rab Nishtar and other speakers, Mr. Gazder and Dr. Qureshi. All that I can tell to the Honourable Members of this House is that as it is under the Bill, the Government as such has no power, no part to play, except, I suppose, if there is an inquiry, the Government will have to supply funds for that ! Apart from that, the Government as such has no part to play, but what I said, is this that even if the Government had a hand in this, and if you find that the Government was using this Bill for the purposes of

victimisation of certain of its opponents, then the remedy is in your hands. I am answerable to this Constituent Assembly and what is more, Mr. President, I am answerable ultimately to my Creator and so long as I and the present Government is there, I want to assure this House that we fear God much more than we fear anything else. I have ultimately to go before my Creator and give an answer for all my deeds here.

**Mr. President :** The question before the House is :

“That the Bill to provide for the debarring from public life for a suitable period of persons judicially found guilty of misconduct in any public office or representative capacity or in any matter relating thereto be taken into consideration.”

The motion was adopted.

**Mr. President :** Now, we will take up the Bill clause by clause.

The question is :

“That clause 2 stand part of the Bill.”

The motion was adopted.

Clause 2 was added to the Bill.

**Mr. Dhirendra Nath Datta :** Mr. President, Sir, I move :

“That in clause 3 of the Bill, after the words ‘time being in force’ the words ‘and subject to the provisos’ be inserted.”

**Mr. President, Sir,** let me move along with it, my amendment No. 34 which has got the proviso.

**Mr. President :** That is a long proviso and I do not think it is necessary for you to move it along with this amendment. Honourable Members will keep that proviso in mind while discussing this amendment.

**Mr. Dhirendra Nath Datta :** Then, I move item No. 34, Sir.

**Mr. President :** You have moved your present motion. You may speak in connection with this on the proposed proviso also.

**Mr. Dhirendra Nath Datta :** Mr. President, Sir, I have very little to say after the very long discussion that we have had regarding the consideration of the Bill. Mr. President, Sir, my leader has made observations in this House that we are not opposed to the principle of the Bill, we rather welcome the legislation and we abide by what has been said by the Leader of the House. But, Sir, I have to make some observations that though we agree on the principles of the Bill, we must remember, and it is difficult to forget, that the person or persons will take initiative in the Bill, and there is an apprehension in the minds of certain sections of people that the party in power may use this Bill for really putting down the opponents. The Democracy has got its disadvantages and the disadvantage of the Democracy is this that really when there is a brutal majority of a certain party, that majority is used in certain cases, in order to suppress certain other sections of the people. That is not to be denied and that cannot be denied. Sir, we have read in the papers regarding this

Bill. We were not prepared for a Bill like this at least in this session  
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and Mr. President, you are certainly aware that the papers are all unanimous in one respect that is that an attempt should be made by the Government to purify the administration. In this matter there is a complete unanimity. But, Sir, an apprehension has been expressed by a certain Section of the press that really at this particular moment the Bill has been brought forward with a certain object in view. After hearing the Leader of the House, the Honourable Mr. Liaquat Ali Khan, we have no reason to be apprehensive of that but, Sir, apprehension has been expressed by certain sections of the people specially because the Bill has been brought at such a time. We need not go into the details. Everyone in this House is fully aware of the apprehension expressed by a certain section of the people. They may be wrong to apprehend like this. Everyone knows that the party in power can be removed by this House but it is also a fact that the party in power uses certain Bills in an oppressive manner in certain cases. So, Sir, in order to remove that I have



[Mr. Dharendra Nath Datta.]

suggested this amendment. So, Sir, I have suggested that the tribunals should consist of certain judges of the High Court. Mr. President, Sir, in these matters I agree with my friend in spite of the argument advanced by the Leader of the House that the real initiative will come from the Cabinet. The Governor-General, as has been uttered by the Honourable the Leader of the House, is really a creature of the Cabinet. Under the constitution as it exists in this country, the Governor-General or the Governor are constitutional heads of the State. The real power rests with the Cabinet and so the Governor-General and Governors are really the creatures of the Cabinet and so the initiative has to be taken by the Cabinet. Sir, there is an apprehension—it may be a wrong apprehension—which shall have to be removed and an assurance be given that the Cabinet will exercise the power in the case of certain persons and the Cabinet will not exercise the power in the case of certain other persons. My friend, Mian Iftikharuddin has tried to make himself clear. To that, Sir, the Honourable the Leader of the House has given a reply that a political party may be grown in this country and everyone and anyone is allowed to express his views as to what he likes in the country at large but, Sir, there is an apprehension that the political party in power would not allow a party to grow if that is not of the liking of the Cabinet. Of course, we do not want the Honourable Ministers and the members of the Muslim League party should go. But if we find that a political party is oppressed and is not allowed to grow, we have every reason to make complaints. So Sir, we apprehend that the party in power may exercise this legislation in favour of certain persons and may exercise this legislation against certain other persons. Therefore the corruption, the misconduct should be removed and the administration should be purified. I yield to none in my desire to do so. But at the same time if you allow a political party and you allow certain political views to grow but if you do not allow certain other political party to be grown, then Sir, certainly it is corruption. So Sir, I suggest that when the initiative is to be taken by the Cabinet, and if a tribunal has to be set up according to the liking of the Cabinet in power, the material shall have to be placed—after all it is an enquiry stage and it is not, Sir, that he will be found guilty of mis-conduct and corruption and he may not be convicted but will be sentenced and convicted when a charge has been proved against him—before the Tribunal and if he is convicted by the Tribunal, he should have the right of appeal to the Sessions Judge against the findings of the Tribunal and still against the decision of the Sessions Judge, he should have the right of appeal to the Honourable High Court. But, here, Sir, there will be no charge really in the true sense of the word and a man may be charged guilty of mal-administration. This has a very wide expression to cover any cases like this and these charges are not charges in the true sense of the word as we find in the Criminal Procedure Code. Such a charge will be levelled against him and a Tribunal will be set up by the Cabinet in power and he will be guilty and he will not even have any right of appeal. I suggest that the right of appeal in such cases to the Federal Court should be given if the Governor-General takes the initiative and the decision of the Federal Court shall be final.

Then, Sir, the Bill gives very wide powers to the Government that is, debarring a certain person from public life. It is really in one sense a capital punishment. So, Sir, in this particular case we must be very careful and if any person is found guilty by a Tribunal and is found guilty by the Federal Court on the strength of certain material placed by the Cabinet in power, then, Sir, the matter should be placed before the Members of the Legislative Assembly. Debarring a person from public life on a charge that he is guilty of misconduct, that he is guilty of corruption, of bribery and jobbery and nepotism and favouritism amounts to impeachment. These are serious charges. So, Sir, all the material that is placed before a tribunal should be placed before

the members of the House and the Members should decide that action should be taken against him. Then and then alone action should be taken otherwise not. That is the proviso that I want to suggest. If we want to purify the administration and public life from corruption, nepotism, jobbery, etc. we also should be careful to see that it does not result in oppression and for that purpose, Sir, the provisos that have been suggested should be welcomed by the Government in power. Of course, criticisms can be levelled against them, but it has become clear to me that the powers given to the Government with regard to misconduct are very wide and they may cover any case of any description whatsoever. My Honourable friend, Sardar Abdur Rab Nishtar, says that the word 'mal-administration' cannot be defined.....

**The Honourable Sardar Abdur Rab Khan Nishtar :** I did not say that. Somebody else said that it is very difficult to define them and I said that it is very easy to understand them.

**Mr. Dharendra Nath Datta :** As it cannot be defined, it goes to show that it is wide enough to cover any case whatsoever. The charges are very serious and the punishment that shall be meted out is also very great. In view of all this I wish to suggest that a certain proviso should be inserted so that we may be free from the criticisms that may be levelled against us. With these few words, I move my amendment for the acceptance of the House.

**Mr. President :** Amendment moved :

"That in clause 3 of the Bill, after the words 'time being in force' the words 'and subject to the provisos' be inserted."

**The Honourable Mr. Liaquat Ali Khan :** Sir, I fear that my Honourable friend, Mr. Dharendra Nath Datta, was not quite wide awake, although as a rule he is, when there was a debate on the motion for consideration of this Bill. I thought that my Honourable friend, Sardar Abdur Rab Nishtar, and other Honourable Members had effectively met the charge that the Executive, I mean the Cabinet, will really be able to use this as an engine of oppression, as Mr. Datta called it. Now, let us examine for the sake of argument as to what is the power and the function that the Governor-General or a Governor is being given under this Bill? He can move a High Court or the Federal Court to go into the allegations that may be made against any Minister or any Member of any Legislature in Pakistan or he may set up a Tribunal. It has been provided by means of an amendment, which will be moved, that the Tribunal shall consist of High Court Judges only. Now, this is one power that is being given to the Governor General. The other power that is being given to him is that if the Federal Court or a High Court or a Tribunal finds a man guilty of misconduct, then the Governor General can disqualify that person for a period up to ten years. I really do not see how the Government can use this measure as an engine of oppression against their opponents. You may say that they may protect some of their supporters, but it won't be oppression against others because a person who is guilty, whether he belongs to the Opposition or to the Government Party, is found guilty. His offence does not become less because he belongs to the Opposition. Therefore, all that you may say is this that favouritism may be shown by the Government itself in the case of some of its supporters, but you cannot say that this measure can be used as the engine of oppression against the opponents of the Government even if the Government had anything to do with this. It reminds me of a story that I read as a child. There was an old woman who was hunch-back and she used to go about. Somebody said: "Dear Lady, would you like that your back should be straightened or would you like that the back of other people should also become like yours?" She replied: "No, I would like the back of other people to be bent like mine because I would like to see them like myself who had been seeing me in this condition." So, my

[The Honourable Mr. Liaquat Ali Khan.]

Honourable friend thinks that if any Member of the Opposition is to be tried, then he is quite satisfied if a Member of the Government Party is also tried irrespective of the fact whether the offence is there or is not there. Sir, I really do not see how anybody should think that this will be used as an engine of oppression.

Then, he has suggested that there should be an appeal. The whole object of having a court like the Federal Court or the High Court or a Tribunal consisting of the High Court Judges is to enable the man to have an impartial trial for the offences that he may be charged with. I think my Honourable friend is a very capable lawyer and he must know that in the case of elections, I mean when people are found guilty of corrupt practices in elections, by a Tribunal not consisting of High Court Judges and when they are disqualified for five years, there is no appeal to any authority. I am sure my Honourable friend knows that. Surely, if there is no appeal in the case of a person who may be found guilty of giving one cigarette to one of his voters to smoke and which may be regarded as a corrupt practice, I do not see why he wants an appeal for a man who is guilty of misconduct including all those things that are described here. Surely, it is a much more heinous crime than offering a day's meal to a voter when he is going to vote for you or giving him a little money so that he can pay for his tonga hire. Therefore, I do not see any justification for providing for an appeal. As I have stated, there is an amendment with regard to the Tribunal, that it should consist of only High Court Judges and of nobody else. But I am quite willing to make a sporting offer to my Honourable friends in this House who think that we are giving too much power to the Governor-General. As I said, one power that you are giving him is that he can refer the matter to a High Court or to a Federal Court or set up a Tribunal. The other power is that he has to decide whether the man is to be disqualified for one, two, three or four up to ten years. I am quite willing to make this sporting offer. Take away that power from the Governor-General, so that anybody who is found guilty of misconduct by one of the Courts should be automatically disqualified for ten years. Here is my offer to those Honourable Members who say that no power should be given to the Governor-General.

Sir, I oppose the amendment.

**Mr. President :** The question is :

"That in clause 3 of the Bill, after the words 'time being in force' the words 'and subject to the provisos' be inserted."

The motion was negatived.

**The Honourable Sardar Abdur Rab Khan Nishtar :** Sir, I move :

"That in clause 3 of the Bill, after the words 'High Court' the words 'moved in this behalf by an order of the Governor-General or a Governor' be inserted."

Sir, it is only to clarify the position that the Federal Court or High Court is to be moved only by the Governor-General or a Governor that these words were considered necessary. Therefore this amendment has been moved.

**Mr. President :** Amendment moved—

"That in clause 3 of the Bill, after the words 'High Court' the words 'moved in this behalf by an order of the Governor-General or a Governor' be inserted."

**The Honourable Mr. Liaquat Ali Khan :** Sir, I accept the amendment.

**Mr. President :** The question is :

"That in clause 3 of the Bill, after the words 'High Court' the words 'moved in this behalf by an order of the Governor-General or a Governor' be inserted."

The Motion was adopted.

**Mr. Kamini Kumar Datta** (East Bengal : General) : Sir, I beg to move

“That in clause 3 of the Bill, after the words ‘or a Tribunal set up in this behalf by the Governor-General or a Governor’ the words ‘functioning judicially as a Court’ be inserted.”

From what has been said in the House, of course, it may be inferred that this amendment may not be required at all if the Tribunal would consist of High Court Judges only.

**The Honourable Mr. Liaquat Ali Khan** : Yes.

**Mr. Kamini Kumar Datta** : I fully appreciate it but I want only to make one point clear. I may say that this amendment may also be required for this, that a Tribunal appointed under a special Statute does not automatically become a Court and does not automatically act judicially. No doubt in the Preamble of the Bill itself it has been said that it provides for the debarring from public life of persons “judicially found guilty”, but as a lawyer of some experience I can say it has been laid down in various rulings that a Preamble no doubt indicates the objective of a Statute but it does not control the Statute. So unless the Statute itself makes it clear that the Tribunal which would be appointed for the purpose that it will be acting judicially as a Court, the question may arise in the event of a particular Tribunal being appointed to hold an inquiry whether in holding the inquiry it is required by the Statute to act judicially as a Court. It may examine witnesses without administering any oath at all and even in that case the findings of the Tribunal would be binding. So it should be made obligatory that the evidence which should be adduced before the Tribunal must be administered on oath and that anybody who would give evidence in a Tribunal must understand that he would be liable for perjury if he would depose falsely. The point ought to be clarified that the Tribunal though it may consist of High Court Judges is still a Tribunal which has been given the power to act judicially as a Court. I may here state that if any reference would be made to some of the Special Tribunals constituted by Special Statutes it has been laid down that all the Tribunals are not Courts and those persons who are appointed as the persons presiding or acting in the Tribunal do not act as a Court but they act as particular persons by name. To remove all possible doubts and to remove all possible misgiving in this matter I would recommend to the House that this point ought to be clarified that the Tribunal which would consist of High Court Judges—which is certainly an improvement and by which fact one may think that because the High Court Judges would be appointed it would be automatically acting as a court—would be “functioning judicially” as a Court.

**Mr. President** : Amendment moved :

“That in clause 3 of the Bill, after the words ‘or a Tribunal’ set up in this behalf by the Governor-General or a Governor’ the words ‘functioning judicially as a Court’ be inserted.”

**The Honourable Sardar Abdur Rab Khan Nishtar** : Sir, I personally think that this amendment is uncalled for and with due respect to my Honourable friend, who is an experienced lawyer, I may say that so far as the actual draft is concerned it is also defective. When you say “functioning as a Court” then the question of “judicially” does not arise at all because a Court always acts judicially otherwise it is not a Court. But it has been explained an amendment to the effect that only the High Court Judges will be qualified to act as members of the Tribunal, is going to be moved and the Honourable the Mover of the Bill has already indicated that he would accept that amendment. In these circumstances, I would submit that the phrase suggested by my Honourable friend may not be included in this section. It is just possible that if you designate the Tribunal as a Court, it might create hundred and one

[The Honourable Sardar Abdur Rab Khan Nishtar.]

complications because the Courts are subordinate to certain authorities and, are bound by certain limitations with regard to procedure, etc. It might create certain difficulties and ultimately the object may be defeated by the ingenuity of clever lawyers, which is not an unknown thing. I would submit that the existing provision should not be unnecessarily complicated. The position is clear. There is going to be a Federal Court ; there is going to be a High Court and there is going to be a Tribunal consisting of High Court Judges. The word "Tribunal" by itself carries the meaning that so far as their approach will be concerned it will be in accordance with judicial principles.

**Mr. Dharendra Nath Datta :** Will oath be administered to witnesses ?

**The Honourable Sardar Abdur Rab Khan Nishtar :** That question probably will be covered by the rules.

**Mr. President :** The question is :

"That in clause 3 of the Bill, after the words 'or a Tribunal set up in this behalf by the Governor-General or a Governor' the words 'functioning judicially as a Court' be inserted."

The motion was negatived.

**Mr. Kamini Kumar Datta :** Sir, I beg to move :

"That in clause 3 of the Bill, for the words 'not exceeding ten years' the words 'not exceeding five years' be substituted."

Sir, it is not necessary to say much about this amendment. The penalty provided in the Bill, i.e., up to ten years may mean expulsion from public life, which means practically extinction. If, Sir, the penalty is limited to five years the person found guilty would get an opportunity to make amends for his past conduct and to re-instate himself in the public life again, if in the meantime he can win the confidence of the people again. The penalty of ten years would be practically a sentence for the rest of his life.

**Mr. President :** Amendment moved :

"That in clause 3 of the Bill, for the words 'not exceeding ten years' the words 'not exceeding five years' be substituted."

**The Honourable Mr. Liaquat Ali Khan :** Sir, I am sorry I am unable to accept this amendment. To my mind the punishment that is being provided for the offence of misconduct is really a very mild punishment.

**Begum Jahan Ara Shah Nawaz :** Not sufficient.

**The Honourable Mr. Liaquat Ali Khan :** .....because a man gains confidence of the people he comes and then uses that position for his own benefit. I think, to my mind, that is one of the worst crimes that any human being could commit and therefore I am afraid I am not in a position to accept this amendment. I must oppose this amendment.

**Mr. President :** The question is :

"That in clause 3 of the Bill, for the words 'not exceeding ten years' the words 'not exceeding five years' be substituted. , ,

The motion was negatived.

The Assembly then adjourned for Lunch till Half Past Three of the Clock, in the Evening.

The Assembly re-assembled after Lunch at Half Past Three of the Clock, in the Evening, Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

**Khan Sardar Bahadur Khan (N.-W.F.P. : Muslim) :** Sir, I beg to move :

"That in clause 3 of the Bill, after the words 'under the crown' for the full stop a colon be substituted and the following proviso be added :

'Provided that the power of the Governor of a Province to move a High Court shall extend only to moving the High Court of the Province, and that he may only move that High Court or set up a Tribunal or make any other order which he is empowered to make under this sub-section in respect of a Minister, Deputy Minister, Parliamentary Secretary or Member of the Provincial Legislature for the Province, and shall in no case have power to move the Federal Court'."

Sir, this amendment is self-explanatory and this proviso is being inserted with a view to clearly demarcate the powers that are to be exercised under this Bill by the Governor and the Governor-General. I formally move it.

**Mr. President :** Amendment moved :

"That in clause 3 of the Bill, after the words 'under the crown' for the full stop a colon be substituted and the following proviso be added :

'Provided that the power of the Governor of a Province to move a High Court shall extend only to moving the High Court of the Province, and that he may only move that High Court or set up a Tribunal or make any other order which he is empowered to make under this sub-section in respect of a Minister, Deputy Minister, Parliamentary Secretary or Member of the Provincial Legislature for the Province, and shall in no case have power to move the Federal Court'."

**The Honourable Mr. Liaquat Ali Khan :** Sir, I accept the amendment.

**Mr. President :** The question is :

"That in clause 3 of the Bill, after the words 'under the crown' for the full stop a colon be substituted and the following proviso be added :

'Provided that the power of the Governor of a Province to move a High Court shall extend only to moving the High Court of the Province, and that he may only move that High Court or set up a Tribunal or make any other order which he is empowered to make under this sub-section in respect of a Minister, Deputy Minister, Parliamentary Secretary or Member of the Provincial Legislature for the Province, and shall in no case have power to move the Federal Court'."

The motion was adopted.

**The Honourable Sardar Abdur Rab Khan Nishtar :** Sir, I beg to move :

"That in clause 3 of the Bill, in the definition relating to 'misconduct', for the word 'mal-administration' the words 'wilful mal-administration' be substituted."

Sir, some apprehension was felt in certain quarters that 'mal-administration' may mean inefficient administration and not certain *mens rea* on the part of the person concerned. This is to make the position further clear that the idea is 'wilful misconduct', and therefore these words are substituted.

**Mr. President :** Amendment moved :

"That in clause 3 of the Bill, in the definition relating to 'misconduct', for the word 'mal-administration' the words 'wilful mal-administration' be substituted."

**The Honourable Mr. Liaquat Ali Khan :** I accept the amendment.

**Mr. President :** The question is :

"That in clause 3 of the Bill, in the definition relating to 'misconduct', for the word 'mal-administration' the words 'wilful mal-administration' be substituted."

The motion was adopted.

**The Honourable Sardar Abdur Rab Khan Nishtar :** Sir, I beg to move :

"That in clause 3 of the Bill, in the definition relating to 'misconduct', after the words 'public moneys' the following be inserted :

'or moneys collected, whether by public subscription or otherwise, by or at the instance of persons holding honorary or stipendiary office under the Central Government or a Provincial Government'."

This addition has been made at the suggestion of certain Members who think that not only the public money in the sense of Government money should be saved but that if a Minister or a Deputy Minister or a Parliamentary Secretary, through some honorary or other officers of the Government collects certain money and then diverts it to undesirable purposes or a purpose for which they were not meant such an act also should be covered by this Act. To satisfy the demand of that section this amendment has been moved.



**Mr. President :** Amendment moved :

"That in clause 3 of the Bill, in the definition relating to 'misconduct', after the words 'public moneys' the following be inserted:

'or moneys collected, whether by public subscription or otherwise, by or at the instance of persons holding honorary or stipendiary office under the Central Government or a Provincial Government'."

**The Honourable Mr. Liaquat Ali Khan :** Sir, I accept the amendment.

**Mr. President :** The question is :

"That in clause 3 of the Bill, in the definition relating to 'misconduct', after the words 'public moneys' the following be inserted:

'or moneys collected, whether by public subscription or otherwise, by or at the instance of persons holding honorary or stipendiary office under the Central Government or a Provincial Government'."

The motion was adopted.

**Khan Sardar Bahadur Khan :** Sir, I beg to move :

"That in clause 3 of the Bill, in the definition relating to 'misconduct', after the words 'power or position' the words 'or any abetment thereof' be added."

Sir, the amendment speaks for itself because if the clause is allowed to stand as it is in the Bill then the abetment of the offence will be excluded from the purview of this Act. I formally move my amendment, which is intended to bring the abetment within the grips of this Act.

**Mr. President :** The question is :

"That in clause 3 of the Bill, in the definition relating to 'misconduct', after the words 'power or position' the words 'or any abetment thereof' be added."

The motion was adopted.

**Khan Sardar Bahadur Khan :** Sir, I beg to move :

"That the existing clause 3 of the Bill be numbered as sub-clause (1) and the following sub-clauses be added as sub-clause (2) and sub-clause (3):

'(2) The Tribunal set up under sub-section (1) shall consist of such two or more High Court Judges as the Governor-General or the Governor, as the case may be, sees fit to appoint.

(3) In making any order under sub-section (1) the Governor-General or a Governor shall act in his discretion'."

Sir, these two sub-clauses in effect try to dispel the doubts that might be lurking in the minds of honest objectors. These two sub-clauses give powers to the Governor-General or the Governor, as the case may be, to act in his discretion, instead of acting on the advice of his Ministry and then the tribunal will necessarily be composed of High Court Judges only. This should satisfy those who apprehend the misuse of this Act.

**Mr. President :** Amendment moved :

"That the existing clause 3 of the Bill be numbered as sub-clause (1) and the following sub-clauses be added as sub-clause (2) and sub-clause (3):

'(2) The Tribunal set up under sub-section (1) shall consist of such two or more High Court Judges as the Governor-General or the Governor, as the case may be, sees fit to appoint.

(3) In making any order under sub-section (1) the Governor-General or a Governor shall act in his discretion'."

**The Honourable Mr. Liaquat Ali Khan :** Sir, I accept the amendment.

**Mr. President :** The question is :

"That the existing clause 3 of the Bill be numbered as sub-clause (1) and the following sub-clauses be added as sub-clause (2) and sub-clause (3):

'(2) The Tribunal set up under sub-section (1) shall consist of such two or more High Court Judges as the Governor-General or the Governor, as the case may be, sees fit to appoint.

(3) In making any order under sub-section (1) the Governor-General or a Governor shall act in his discretion'."

The motion was adopted.

**Mr. President :** The question is :

"That clause 3, as amended, stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5 was added to the Bill.

**The Honourable Sardar Abdur Rab Khan Nishtar :** Sir, I beg to move :

"That in clause 6 of the Bill, for the word 'An' appearing at the beginning of the clause, the word 'Any' be substituted."

Because more than one orders are contemplated by clause 3 therefore it is necessary to make this verbal amendment that instead of the word "An", "Any" should be there.

**Mr. President :** Amendment moved :

"That in clause 6 of the Bill, for the word 'An' appearing at the beginning of the clause, the word 'Any' be substituted."

**The Honourable Mr. Liaquat Ali Khan :** Sir, I accept the amendment.

**Mr. President :** The question is :

"That in clause 6 of the Bill, for the word 'An' appearing at the beginning of the clause, the word 'Any' be substituted."

The motion was adopted.

**Mr. President :** The question is :

"That clause 6 as amended stand part of the Bill."

The motion was adopted.

**Mr. President :** We will take up new clause 7.

**The Honourable Sardar Abdur Rab Khan Nishtar :** Sir, I beg to move :

"That after clause 6 of the Bill, the following new clause be added as clause 7 :

'7. The Central Government may frame such rules as it considers necessary to carry out the purposes of this Act'."

Sir, the rules are necessary to carry out the Act and, therefore, this amendment has been suggested.

**Mr. President :** Amendment moved :

"That after clause 6 of the Bill, the following new clause be added as clause 7 :

'7. The Central Government may frame such rules as it considers necessary to carry out the purposes of this Act'."

**The Honourable Mr. Liaquat Ali Khan :** Sir, I accept the amendment.

**Mr. President :** The question is :

"That after clause 6 of the Bill, the following new clause be added as clause 7 :

'7. The Central Government may frame such rules as it considers necessary to carry out the purposes of this Act'."

The motion was adopted.

**Mr. President :** The schedule which refers to clause 3A falls through because there is no clause as 3A.

**Mr. Nur Ahmed :** Sir, I beg to move :

"That in sub-clause (3) of clause 1 of the Bill, between the words 'and' and 'be' the word 'shall' be inserted."

**The Honourable Mr. Liaquat Ali Khan :** Sir, I accept the amendment.

**Mr. President :** The question is :

"That in sub-clause (3) of clause 1 of the Bill, between the words 'and' and 'be' the word 'shall' be inserted."

The motion was adopted.

**Mr. President :** The question is :

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

The Title and the Preamble were added to the Bill.

**The Honourable Mr. Liaquat Ali Khan :** Sir, I move :

"That the Bill, as amended, be passed."

I do not think I have to say very much on this motion. I am sure the House would realize that some very important changes and amendments have been made in the Bill and in the form in which it is now before the House, all those doubts and all those objections should not exist any more as were raised in the beginning. I hope that the Bill will achieve the object which every one of us has in his view, namely, the purification of the administration of Pakistan.

**Mr. President :** The question is :

"That the Bill, as amended, be passed."

The motion was adopted.

### THE CONSTITUENT ASSEMBLY FOR PAKISTAN (INCREASE AND RE-DISTRIBUTION OF SEATS) BILL

**Mr. President :** Before I call upon the Honourable Khwaja Shahabuddin to move the next motion, I would like to refer to a matter in that connection. That Bill is based on a Resolution already adopted by this House, but unfortunately a mistake, somewhat of a clerical nature, has crept into the said Resolution. One clause of the Resolution was to this effect that one of the five General seats allotted to the West Punjab in the Constituent Assembly of Pakistan, out of which four are vacant, be filled in accordance with the existing Rules of the Constituent Assembly. It appears that the mistake was this that the number of the General seats was not five. The number actually was three. Therefore, of these three seats only two are vacant. One is not vacant. Therefore, in place of the word 'five' the word 'three' should have been there and that in place of 'four' the proper figure should have been 'two'. I think, if the House agrees, necessary correction may be made in the proceedings.

In fact, the mistake arose in that way. The total number of Non-Muslim Seats and not General Seats was five—three General and two Sikhs. I think that correction can be made.

**The Honourable Mr. Liaquat Ali Khan** (East Bengal : Muslim) : Yes.

**The Honourable Khwaja Shahabuddin** (East Bengal : Muslim) : Sir, I beg to introduce the Bill\* to amend the constitution of the Constituent Assembly for Pakistan.

(After a pause.)

Sir, I move :

"That the Bill to amend the constitution of the Constituent Assembly for Pakistan be taken into consideration."

Sir, I need not make any speech. It is only to implement the Resolution passed by this House that this Bill has been placed before this House.

**Mr. President :** Motion moved :

"That the Bill to amend the constitution of the Constituent Assembly for Pakistan be taken into consideration."

**Mr. A. M. A. Hamid** (East Bengal : Muslim) : I am just enquiring whether these five Seats are in addition to the five Non-Muslim Seats ?

**The Honourable Khwaja Shahabuddin :** Sir, we are dealing with the Muslim Seats and these five Seats are additional Muslim Seats which we are providing in the West Punjab. As far as the General Seats are concerned, the only recommendation here according to the Resolution of the Constituent Assembly is that one of the vacant General Seats be filled up. That is all.

**Mr. A. M. A. Hamid :** That was unfortunately five Non-Muslim Seats. It should have been five Non-Muslim Seats but it has been written five General Seats—three Seats belonging to the general category and two to Sikhs. What will be the effect after the passing of this Act ?

**The Honourable Khwaja Shahabuddin :** Sir, my friend has entirely misunderstood. It is the recommendation of the House. As far as the additional five Muslim Seats are concerned, they have no bearing on the five—three General and two Sikh Seats. The recommendation of the Committee, if my Honourable friend would refer to the report, is that on account of the increase of the Muslim population in the West Punjab, that Province is entitled to five Seats and that five additional Seats be allotted. That recommendation is independent and has no bearing on the Non-Muslim Seats there. Then considering the question of the minorities, another recommendation by a

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Resolution of the House was made that as far as the minorities are concerned, they may be given a chance for representation through the General Seats and in that all those discrepancies crept in of the number five and three, but actually the position is that out of the three General Seats, two are vacant and one of them will be filled in accordance with the Resolution of the Constituent Assembly. That will be done by an executive order and it has nothing to do with this Bill. I hope that I have now made my position clear.

**Mr. A. M. A. Hamid :** What about the two Sikh Seats ?

**The Honourable Khwaja Shahabuddin :** There are no Sikh seats.

**Begum Jahan Ara Shah Nawaz (West Punjab : Muslim) :** Sir, I would very much like to make it clear that the West Punjab is entitled to more than five seats. As the Honourable Minister for the Interior will recall, I fought very much for a sixth seat as well. You will see Sir, from the Report of the Committee, that 53·80 lakhs of people have come into the West Punjab and when we were given 16 seats, a fraction of 2,75,000 was left over. As the Cabinet Mission's Plan proposes, anything above five should be counted as one, that is why both the Chairman and myself asked for another seat, the sixth seat. Punjab is getting only five seats and no more and in fact, they are entitled to one more seat, as I did point out.

**The Honourable Khwaja Shahabuddin :** Sir, I would like to point out to Begum Sahiba that she was present on the day the Report of the Committee was placed and I placed the Resolution that five seats be allotted. That was therefore, the proper occasion when Begum Sahiba ought to have pressed this point. I do admit that she fought very vehemently in the Committee for an additional seat. If she could get her way, she would have added not only one, but more seats. But, unfortunately the figures did not support her. The figures after the Radcliffe Award, showed that over 11 million people were left in the West Punjab and on that basis the seats that they were getting were more than their quota and this additional 53 lakhs on which the Committee based the additional five seats, was just enough and we did not overlook any extra number which was left over before. So, I think, Sir, the recommendation was there. In any case, now it is too late and the House has already accepted the recommendation that only five additional seats should be given. I can only say that it is based on the figures and is fully justified and that Province is not entitled to any more seats.

**Begum Jahan Ara Shah Nawaz :** I am not asking for any more seats, I know it is too late. What I wanted was that it should go on the record.

**Mr. President :** The question is :

"That the Bill to amend the constitution of the Constituent Assembly for Pakistan be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Khwaja Shahabuddin :** Sir, I beg to move :

"That the Bill be passed."

**Mr. President :** the question is :—

"That the Bill be passed."

The motion was adopted.

**Mr. President :** The House stands adjourned *sine die*.

The House then adjourned *sine die*.